Citizen Charter Review Committee
November 12, 2009
11:30 a.m.-1:30 p.m.
Leon County Courthouse
Commission Chambers, 5th floor

I.   Call to Order

II.   Invocation and Pledge

III.   Roll Call

IV.   Approval of Minutes of Previous Meeting

       1. November 3, 2009 Meeting Minutes

V.   Reports of Chairperson

VI.   Presentations by Invited Guests/Consultant

       1. Presentation by the County Administrator
         -Overview of Leon County Government

       2. Presentations by County Commissioners

VII.   Remarks of Interested Citizens

VIII.   Unfinished Business

IX.   New Business

       1. Staff/Consultant Discussion (Pertinent Updates)

       2. Member Discussion (Direction to Staff/Consultant)

X.   Adjournment with Day Fixed for Next Meeting

*The next meeting of the Citizen Charter Review Committee is scheduled
for Thursday, November 19, 2009*

I.

CALL TO ORDER

II.

INVOCATION AND PLEDGE

III.

ROLL CALL

IV.

APPROVAL OF MINUTES OF PREVIOUS MEEINTG

The Leon County 2009-2010 Citizens Charter Review Committee (CRC) met on November 3 at 11:30 a.m. in the Commission Chambers with Committee members Rick Bateman, Larry Simmons, Jon Ausman, Ralph, Linda Nicholsen, David Jacobsen, Marilyn Wills, Chuck Hobbs, Donna Harper, Sue Dick, Cathy Jones, Chris Holley, Lance deHaven-Smith, Lester Abberger, and Tom Napier present.   Also present were County Administrator Parwez Alam, County Attorney Herb Thiele, Deputy County Administrator Vince Long, and Recording Clerk Rebecca Vause.

County Administrator Alam called the meeting to order at 11:35 a.m. and welcomed committee members and introduced staff. He noted that a Committee Chair and Vice Chair would need to be appointed.

Mr. Alam shared that the County's Charter was passed in 2002 and this is its first review.   He offered that the two most important questions to be considered are: 1) does the Charter as it stands today, reflect the preferences of the community in terms of its local government and 2) what changes or issues should be included to enable the County to tackle current and future challenges.   Mr. Alam stated that Board members had identified and shared issues they deemed important for CRC consideration; however the Board was clear in its intent that the Committee not be restricted in issues they wished to address.

Mr. Alam called for nominations for the CRC Chair. The following nominations were made:
- *Chris Holley – nominated by Rick Bateman and seconded by Lester Abberger*
- *Donna Harper – nominated by Jon Ausman and seconded by Larry Simmons*
- *Marilyn Wills – nominated by Ralph Mason and seconded by David Jacobsen*

Mr. Thiele instructed members on the process to be used to tally the vote.

Mr. Long added brief remarks on the CRC process and noted that all meetings will be streamed live via the web. He added that a new website www.leoncountyfl.gov/charterrev has been established and has the functionality to allow the Committee to accept citizen input.

Mr. Long introduced Kurt Spitzer, President, KS&A Government Consultants. He noted that Mr. Spitzer was involved in the development of the County's original Charter and has been retained to provide consultative services to the CRC.

Mr. Spitzer indicated his role to the CRC is as an independent advisor. A power point presentation was utilized to provide an Overview of Charter Government and included:
- Florida History
- Origins of County Structure
- 1968 Florida Constitution
  - Dillon's Rule replaced by Home Rule
- Pressures
- Key Policies (Article VIII – Section 1)
  - Can only be adopted, amended, repealed by vote of the electorate;
  - May provide alternative methods of selecting County officers;
  - Size, terms, districting schemes of County Commission and the relationship between the Commission and Executive Branch can be revised, and

- Charter Counties have all powers not inconsistent with general law and the Charter must specify if County ordinance prevails over that of a City.

He summarized areas that are primarily affected by County Charters:
- Districting schemes (manner in which commissioners are elected)
- Election Methodology (partisan vs. non-partisan)
- Salaries
- Terms of Office (length and limit)
- Head of Executive Branch (appointed or elected)
- County Constitutional Officers
- Countywide Policy
- Countywide Programs
- Citizen Initiative
- Charter Amendment Process
- Preservation of Rural Lands

At this time, ballots for selection of the Chair were distributed. Mr. Thiele explained the voting process and upon the tally of the vote it was determined that the Committee had selected Mr. Chris Holley as its Chair.

At this point, Chairman Holley assumed the Chair and after brief discussion, Mr. Holley confirmed that it was acceptable to Ms. Wills and Ms. Harper that the selection of Vice Chair be conducted via a coin toss. Ms. Wills prevailed and was selected Vice-Chair.

Mr. Thiele provided an overview of Florida Public Records and Sunshine Laws. He advised that Public Records and Florida Sunshine Laws apply to CRC members, and to a certain extent, Statewide Ethics Code.

- Sunshine Law: CRC members should not discuss any matters that may or may not be recommended to the Board and includes communications such as in person, telephone, e-mail, twitter, text, secret hand shake, or use of a conduit. He added that any issue a member wishes to have considered or discussed should be brought to the Committee for action.

- Public Records Law – Any communications received relating to the CRC or potential issues brought forth by citizens for CRC consideration are considered public record and should be brought to the attention of staff for inclusion in the official CRC file.

- Florida Code of Ethics: Committee members are not subject to financial disclosure; however voting conflicts may arise during the process. He noted that County staff is available to assist; however, would not be able to conduct research on individual member requests.

Mr. Bateman suggested that Committee members be instructed not to e-mail each other about any potential committee discussion issues. Mr. Thiele agreed and added that if a communication is received from a citizen, this should be forwarded to staff for handling.

Mr. Spitzer indicated that a set of "draft bylaws" was included in the Committee packet and suggested that these be reviewed and comments/revisions can be addressed at the next meeting. He also referenced the proposed Committee schedule.

There was discussion regarding the proposed By-Laws.
- Mr. Bateman opined that the two-thirds requirement (Rule 10C) was too high.

- Ms. Harper agreed and added that Rule 19 should be amended to remove …."present and voting" and that the bar be lowered from two-thirds to a simple majority.

Mr. Spitzer shared that the practice of other counties is "some sort of extra ordinary majority" to approve an issue to go before the Board.

Mr. Holley suggested that the recommendation be given thought; however, he remarked that more than a simple majority should be attained to these types of important decisions.

Mr. Bateman requested data be brought back on how these thresholds are approached by other CRC's. Mr. Holley confirmed that there was consensus ask staff to bring back this information.

- Mr. Ausley suggested that by-laws contain some type of language which includes minority report.
- Ms. Harper offered that Rule 5 include an Approval of the Agenda and Rule 12 state that Roberts Rules of Order Governing Small Bodies apply.
- Mr. Ausman suggested that Section 6 be amended to remove "tapes and should reflect current technology.

A review of the Committee schedule was conducted and a brief discussion ensued. Chairman Holley stated that he would not be able to attend the November 12 meeting and asked that the November 12 and November 19 meeting agendas be "flip flopped". The Committee agreed to the request and accepted the proposed timeline, as amended.

Chairman Holley pointed out that future agendas are only a framework and can be amended as needed.

There being no further business, the meeting was adjourned at 1: 25 p.m.

_____

Christopher Holley, Chair

_____

Bob Inzer, Clerk of Court

V.

REPORTS OF CHAIRPERSON

By Robert O'Neill
and John Nalbandian

CHARTER REFORM

WAYS TO
THINK ABOUT IT

Form-of-government initiatives can be challenging because the underlying differences between the council-manager and mayor-council forms—and all the variations in between—often are misunderstood or distorted. The impetus for those advocating the mayor-council form of government is often twofold: a need for strong leadership, and the hope that a single, elected individual can rise above the challenges of local political culture and the inevitable conflict in policy debates to make a difference.

EXECUTIVE SUMMARY

Passion and ideology often drive form of government debates. In this article, a more analytical approach is offered centering on three questions:

› What is the problem we are trying to solve by changing the form of government?

› How will form of government affect the balance we seek on issues of representation, policy leadership, and administrative efficiency?

› And last, what are the consequences of separating executive and legislative powers as in mayor-council form versus unifying powers in the council-manager form?

The impetus for those advocating the council-manager form of government is, in contrast, the desire to deliver services throughout an entire community in the most efficient, effective, and equitable way possible. Regardless of form, it is the combination of strong political, policy, and managerial leadership that most consistently ensures a community's success.

What often goes unexamined are the ramifications of a form of government. The mayor-council form separates legislative and executive powers, and the council-manager form unites them. These diametric differences imply differing outcomes. In this article, we offer an examination of the different features of these forms, including their benefits and shortcomings.

Initially, we must make a point [original said several points but where is the second point?]. First, a charter is the equivalent of a constitution in that it establishes the framework for the basic relationships between governmental functions such as the legislative, executive, and judicial functions. Because a charter performs as a constitution, one should be cautious about changing it.

The Founders made it difficult to change the U.S. Constitution for a reason. It is the foundation for developing roles, responsibilities, and relationships. Its purpose is enduring. It grows out of norms and expectations and then it influences them for subsequent generations. It provides stability in governance.

When citizens view a charter as a guide to organizational structure, however, they assume it should be flexible. The organizational structure of a jurisdiction today is not the same as it was yesterday because that structure should enhance problem solving. As the problems change, the structure needs to adapt.

When a community is considering a change in structure or charter, it's a mistake for citizens to assume that a charter change is the solution. First they must consider such questions as:

- What problems or opportunities are change proponents trying to address?

- What is not working as well as it should?
- What is the evidence that changing the organization's structure or jurisdiction's charter would fix the problem or open up a new opportunity?

The goals of any local government charter should be to:

- Include provisions that provide for the adequate representation of citizens in governing bodies and processes.
- Focus policy leadership and accountability for execution of the law, policy implementation, and service delivery.
- Provide for a professional, highly trained staff who are protected from inappropriate political influence so that employees will feel free to say what needs to be said without considering political ramifications.[1]

Here's where it gets interesting: It is not possible to maximize all three of these goals at the same time. More representation makes it more difficult to focus leadership; more policy leadership and influence for the mayor's office may politicize employees and diminish the value of the council. More protection for employees may create obstacles to policy leadership and accountability. Charter reform—like creating and amending all constitutions--is about compromising, not optimizing. Looking at these three goals in more depth provides valuable perspective.

Representation Issues

Representation issues are captured in the following types of questions:

- How many council districts or seats should there be?
- How will representatives be elected—by district or ward, at large, or through a combination district and at-large system?
- What will be the authority of the council, especially in relation to the mayor and regarding personnel issues?

The more diverse a community, the more important are issues of representation. If the community wants all citizens to feel invested in the public good, the community is best served by a council elected by districts. Community leaders cannot expect people to commit to a greater good if they do not feel that they are cared about. In some ways, representation reflects caring. Whom does the community care about? Once that question is decided, a community can work on the representation formula.

We know from experience, however, that with more districts it becomes more difficult for the council to consider the city as a whole. Here we confront the first question for which there is no correct answer. We can make many districts to reflect diverse interests but at the cost of diminishing the focus on the entire community.

In a contrasting system, we can elect all representatives at large and lose the value of the differences that exist within the community. Which is optimal? No one knows, and that is the crux of charter reform: no one really knows the correct answer because there is no single correct answer. The answer must be developed consensually to meet a community's needs.

Policy Leadership

The second issue has to do with policy leadership. This is an issue that tends to focus on the role of the mayor, especially in the mayor's relation to large or diverse councils. The more power granted to the mayor, the more likely that political leadership and accountability will be focused in the mayor's office. The less power granted to the mayor, the more power and responsibility the council has.

Where councils consistently cannot work together effectively, leadership and accountability suffer, and people naturally look to the mayor's office to pick up the slack. In council-manager government, which lacks extensive mayoral powers, this may be hard to do unless the mayor is a particularly skilled individual.

> The rule of thumb for a community is that it should set up an organizational structure, personnel system, and culture that encourage professional staff to tell the council what it needs to know, not just what it wants to hear.
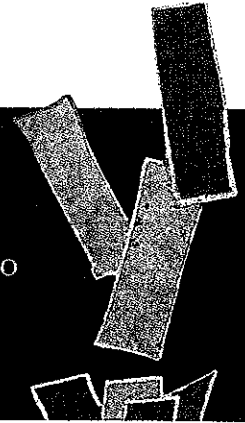
The more powerful the mayor's office, usually the more reactive the council will become. The more power the mayor has, the more likely the council will focus on ratification, scrutiny, and constituent services and will define its role in relation to the mayor's role rather than focus on policy initiation and development. These expectations and roles are inherent in the decisions that are made about the mayor's role.

Also, the more that policy leadership resides formally in the mayor's office, the more likely it is that the mayor will have to court supporters on the council and use appointments, contracts, budgetary allocations, and constituent services as a way of consolidating power.

In addition, the more power in the mayor's office, the more likely it is that a talented individual can make a significant difference in a community. We have examples of heroic mayors—Stephen Goldsmith of Indianapolis, and Rudy Giuliani of New York City. But do we want to create a form of government that depends primarily on the chance that the mayor will be exceptionally talented?

One of the coauthors of this article served as a mayor in a pure council-manager form and was arguably reelected with more votes than anyone had garnered up to that time. But even with such a strong mandate, a mayor can wield only limited political power within the framework of a council-manager form—that is the design. Council-manager government is designed to promote partnership between the mayor and council, and the mayor's role becomes facilitative.

Administrative Effectiveness

The third variable is the need for a politically neutral and competent civil service. Political neutrality and staff competence can be enhanced or foiled depending on the relationship between personnel hired on the basis of merit and the council and the mayor.

Credibility of government in large measure depends on efficient, equitable service delivery and policy implementation. Does the charter provide for a chief administrative officer, selected on the basis of competence and experience? If so, to whom does the CAO report? Who appoints the CAO?

The more that employees are isolated from political influence, the more likely they will be to act in politically neutral ways that are responsive to the authoritative acts of a governing body, managerial direction, and the ethical standards of their profession. We would expect public works decisions, for example, to be grounded in commitments to engineering principles as well as the authoritative direction of a governing body.

The rule of thumb for a community is that it should set up an organizational structure, personnel system, and culture that encourage professional staff to tell the council what it needs to know, not just what it wants to hear.

The more protections from politics that staff members have, the more cumbersome personnel management becomes. The classic tension in human resources management comes from juxtaposing functions that can challenge each other.

On the one hand, personnel systems are designed to regulate managerial and political behavior to avoid favoritism and capricious decisions. On the other hand, personnel systems are suppose to facilitate mission accomplishment. The more emphasis placed on the regulatory function, the easier it is to crowd out the facilitative function.
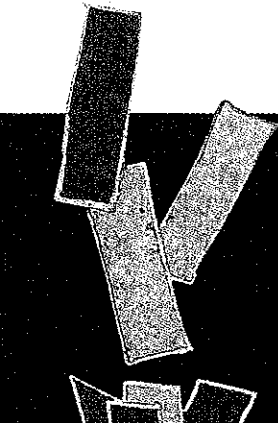
A professional chief administrative officer, hired on the basis of competence, can add significant value to efficient and equitable policy development, implementation, and service delivery as well as a citywide, long-term perspective on municipal needs. ICMA, the International City/County Management Association, engaged in a two-year project beginning in 2004 to determine the value that professional managers add to their jurisdictions. This examination showed that a trained CAO can excel in a community culture and a form of government that fosters professionalism.2

Each of these functions—representation, executive leadership, and administrative effectiveness—has an impact on the other, and maximizing one can have a negative impact on another. If, for example, a community seeks to enhance representation by increasing the number of districts, it can create obstacles to developing a citywide policy perspective.

The more districts, the more important the mayor's role becomes in trying to focus political energy on a vision. But the more powerful the mayor's role, the less relevant the council's role and the more potential threats there are to maintaining a politically neutral city staff.

Separate vs. Unified Power

We suggest that the fundamental decision to be made about how to represent

the community, focus policy leadership, and create an effective and efficient civil service is whether to separate legislative and executive powers or to unify them.[3]

If a community chooses a council-manager government or a variation of that form, it likely will sacrifice heroic political leadership. This is not a given, though, and there are boundless examples of high-quality political leadership in council-manager government. Henry Cisneros was mayor of a council-manager city, San Antonio, Texas, and he fits the bill of a charismatic, heroic mayor.

But the intent of council-manager government is that political leadership comes from the entire governing body and not a single, charismatic individual. To repeat, the mayor's role is "facilitative" in council-manager government.[4]

The term "governing body" makes sense in council-manager government because the form of government is designed with the expectation that elected officials will work together with a professional staff to produce quality policy direction and implementation.

State governments and the federal government are constitutionally designed to separate executive and legislative functions into discrete branches of government. The mayor-council design falls within this rubric of power separation even though the scope of governing institutions is smaller. Thus, depending on the mix, the more power a mayor has, the more we can expect conflict between mayor and council, just as we do between Congress and the president. Again, within any particular jurisdiction, these likelihoods may not occur, but the probabilities are built into the system itself.

Because the dynamics between the mayor and council are so important and conflict can be expected, it is possible for partisanship to play a role in coordinating mayoral and council power, how things get done, and who gets what. The greater the role partisanship plays in coordinating the politics in a community, the more professionalism suffers.

One critical, additional observation is necessary. Although it is possible today to find pure forms of council-manager government and mayor-council government, it is more common to find hybrids. In communities with pure council-manager government, the mayor is elected from among the council to ensure that the mayor has the council's respect. In the United States currently, however, voters in more than 67 percent of council-manager governments directly elect their mayors. Also, based on our experience, we believe it is increasingly likely that officials working in mayor-council governments will value professional managers or administrators.

We believe that council-manager government (and its variations) is superior to mayor-council government because the council-manager structure at the local level makes possible a partnership between political and administrative spheres to a degree not likely to be achieved in a mayor-council form of government.

Making the connection between what is politically acceptable and administratively feasible is the fundamental goal of government. As long as the partnership between politics and administration is the primary goal, variations on council-manager government are preferable.

If, however, the representation of diverse segments of a community trumps other considerations and dictates that citizens elect a large governing body whose members are elected by district, then a strong political and policy leader may be required.

When a community is considering the form of government it wants to adopt, it would do well to start by identifying the problems it is trying to fix and articulating goals. Ask what evidence suggests that a change in form of government will fix those problems or advance community goals. Finally, ask whether problems in the community are due to the individuals who are being elected or appointed or are due to the system itself. **PM**

ENDNOTES

1 Herbert Kaufman, "Emerging Conflicts in the Doctrines of Public Administration," American Political Science Review 5 (December 1956): 1057–1073.

2 James Keene, John Nalbandian, Robert O'Neill, and Shannon Portillo, "How Professionals Can Add Value to Their Communities and Organizations," Public Management, March 2007.

3 The most complete statement is Official Leadership in the City: Patterns of Conflict and Cooperation. NY: Oxford University Press, 1990. Chapter 2. The argument in broader comparative terms is in Poul Erik Mouritzen and James Svara, Leadership at the Apex: Politicians and Administrators in Western Local Governments. Pittsburgh: University of Pittsburgh Press, 2002, ch. 3.

4 James H. Svara, The Facilitative Leader in City Hall (Boca Raton, Fla.: CRC Press, 2009).

ROBERT O'NEILL is executive director of ICMA, Washington, D.C. (roneill@icma.org). **JOHN NALBANDIAN** is a faculty member in the Public Administration Department, University of Kansas, Lawrence, Kansas. He is a former councilmember and mayor in Lawrence, Kansas (nalbandj@gmail.com).

VI.

PRESENTATIONS BY INVITED GUESTS/CONSULTANT

Leon County Citizen Charter Review Committee
Commissioners' Presentation Order

Presentations by the County Commissioners will begin following the County Administrator's presentation.

Commissioner Bryan Desloge

Commissioner Jane Sauls

Commissioner John Dailey

Commissioner Bill Proctor

Commissioner Cliff Thaell

Commissioner Akin Akinyemi

VII.

REMARKS OF INTERESTED CITIZENS

VIII.

UNFINISHED BUSINESS

IX.

NEW BUSINESS

X.

ADJOURNMENT WITH DAY FIXED FOR NEXT MEETING